

REMARKS

An Office Action was mailed on November 20, 2006, and declared Final. Claims 1-2, 4-9, 11-18 and 21-24 are pending.

Claims 1-2, 4-9, 11-18 and 21-24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Herz et al. (U.S. Patent 5,758,257) in view of Mowry (U.S. Patent Publication 2001/0049625). Reconsideration is respectfully requested in view of the amendments and arguments submitted herewith.

With respect to claim 1, Applicant respectfully reiterates and continues the arguments set forth in Applicant's response dated August 25, 2006, with respect to Herz et al. and Mowry and continues to respectfully submit that claims 1 et al., are patentable over Herz et al. in view of Mowry.

Furthermore, with respect to claims 5-7, there is no teaching in Mowry to suggest the use of a still image display in the virtual channel environment of Herz et al. Mowry is limited to the environment of a live celebrity endorsement, not a stored celebrity profile. There is nothing in Mowry that could be attributed to the system of Herz et al. that would lead one skilled in the art to arrive at the use of a still image to represent a celebrity profile-based recommendation generator as set forth in the present claims. Applicant further respectfully submits that a §103(a) rejection cannot be based on what a reference "could conceivably" show as proffered by the Examiner with respect to claims 5-7.

Claim 8, as amended, requires:

"means for obtaining a celebrity profile of a celebrity from an external source and storing the celebrity profile on the lifestyle recommendation device;

means for a user selecting the celebrity profile from one or more stored celebrity profiles;

means for making a recommendation to the user for an item, service, and/or event based on the celebrity profile; and

reporting means for the lifestyle recommendation device reporting the recommendation to the user through an image of the celebrity while simultaneously displaying the image of the celebrity."

Thus, the user is able to use a device to obtain a celebrity profile from an external source and store the same on the device, and then select a stored celebrity profile from one or more stored celebrity profiles by which a recommendation is based, and then the user is able to see an image of the celebrity as the lifestyle recommendation machine reports the recommendation. The celebrity image in this case is used to confirm the identity of the profile used, but the celebrity itself is not making the actual recommendation as per Mowry. Instead, the lifestyle recommendation device is making the recommendation through an image of the celebrity. In other words, Mowry is based on an actual celebrity endorsement of an actual item, service and/or event, which is similar to the teaching of celebrity profile-based virtual channel in the paragraph bridging columns 48 and 49 of Herz et al. In both Mowry and Herz et al., the recommendation output is defined through the actual celebrity, and not based on the profile of the celebrity, which is why the celebrity profile cannot change in Herz et al., column 49, lines 4-6. In other words, the output in Herz et al. and Mowry is pre-defined by the celebrity. In the present case, the lifestyle recommendation machine uses a selected, previously stored celebrity profile to generate a recommendation report, and then uses the image of the celebrity to convey such report, the image of the celebrity confirming that the celebrity profile was used to make the recommendation.

The teaching of Mowry only extends to an actual, live celebrity endorsement of a particular item, service or event. However, there is no suggestion or motivation in Mowry to use the preferences of a particular celebrity to make recommendations not affiliated with a live endorsement. This is based on the difference between a live celebrity endorsement and a stored celebrity profile. In Mowry, the endorsement is manifest through the celebrity and is generated by the company behind the endorsed item, where the celebrity is simply a communication vessel. The celebrity endorsement is unrelated to the profile behind the celebrity. In the present case, the stored profile of the celebrity is based on the preferences or likes and dislikes of the celebrity, and the recommendation is based on the stored profile of the celebrity, wherein the celebrity image is provided to correlate the recommendation with the profile behind the recommendation. In other words, the recommendation is actually

made by the lifestyle recommendation machine, not the celebrity, although the celebrity image is used to confirm that the recommendation is based on the profile of a particular celebrity and not a particular user of the lifestyle recommendation machine. Accordingly, to modify Herz et al. with a live celebrity endorsement environment of Mowry, as suggested by the Examiner, would result in a device that is completely different from the device of claim 8 as set forth herein, for the clear reasons discussed above.

Furthermore, with respect to claims 12-14, there is no teaching in Mowry to suggest the use of a still image display in the virtual channel environment of Herz et al. Applicant also respectfully directs the Examiner to Applicant's arguments of August 25, 2006. Again, Mowry is limited to the environment of a live celebrity endorsement, not a stored celebrity profile. There is nothing in Mowry that could be attributed to the system of Herz et al. that would lead one skilled in the art to arrive at the use of a still image to represent a celebrity profile-based recommendation as set forth in the present claims.

Accordingly, Applicant respectfully requests withdrawal of the §103(a) rejections to claims 1-2, 4-9 and 11-16 based on Herz et al. in view of Mowry.

Claim 17 recites:

“substituting a user profile based on explicit and/or implicit directions of a user with a profile of a synthetic celebrity or a fictitious character played by a real celebrity;
making a recommendation for an item, service, and/or event based on the profile of the synthetic celebrity or fictitious character; and
reporting the recommendation to the user through the synthetic celebrity or fictitious character.”

Claims 17-18 and 21-24 are based on a profile generated from a synthetic celebrity or fictitious character (see, for example, page 4, line 11 through page 5, line 15 of the originally-filed specification). Applicant respectfully submits that the prior art of record fails to teach or reasonably suggest a recommendation generated from a synthetic celebrity or fictitious character as set forth herein.

In view of the above amendments and remarks, it is believed that claims 1-2, 4-9, 11-18 and 21-26 are in condition for allowance. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper, not already paid through an EFS-Web filing, may be charged to Deposit Account No. 50-3894. Any overpayment may be credited to Deposit Account No. 50-3894.

Respectfully submitted,

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